

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS**

IN RE: NEW ENGLAND)
COMPOUNDING PHARMACY, INC.)
PRODUCTS LIABILITY LITIGATION)
) **MDL No. 1:13-md-2419**
) **Judge Rya Zobel**
This Document Relates to:)
) **Berry v. Ameridose, LLC et al**
3:13-cv-01032)
)

**PLAINTIFF FREDIA BERRY'S EMERGENCY MOTION TO COMPEL ST. THOMAS
CLINIC DEFENDANTS TO PRODUCE RECORDS IN RESPONSE TO MS. BERRY'S
FIRST SETS OF REQUESTS FOR PRODUCTION**

Plaintiff Fredia Berry hereby moves the Court to enter an order that compels St. Thomas Outpatient Neurosurgical Center, John Culclasure and Debra Schamberg, RN, CNOR (collectively, “St. Thomas Neurosurgical”) and Howell Allen Clinic (“Howell Allen”) to supplement their responses to Ms. Berry’s First Set of Requests for Production and to produce responsive records immediately, in the manner set forth in the accompanying Memorandum.

A Memorandum in Support setting forth the reasons for this motion is filed contemporaneously herewith. As explained therein, Ms. Berry has attempted to confer with counsel for St. Thomas Neurosurgical and Howell Allen in a good-faith effort to obtain, without court intervention, the testimony and records sought to be compelled by this motion. Specifically, Ms. Berry served a letter seeking to meet and confer regarding these Defendants' discovery responses on December 23, 2015, but she received no response to that request. The Defendants' failure to respond (19 days have passed since Ms. Berry served her letter) justifies an automatic grant of Ms. Berry's motion under Local Rule 37.1 and the issuance of any other sanction that the Court believes is appropriate. Given the tight case-specific deadlines, ongoing

deposition discovery, and the upcoming case-specific expert deadline, Ms. Berry requires emergency relief to ensure that she does not suffer irreparable prejudice in prosecuting her claims against the Defendants.

Date: January 12, 2016

Respectfully submitted:

/s/ Benjamin A. Gastel

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CERTIFICATE OF SERVICE

I, Benjamin A. Gastel, hereby certify that I caused a copy of the foregoing document to be filed electronically via the Court's electronic filing system. Those attorneys who are registered with the Court's electronic filing system may access these filings through the Court's system, and notice of these filings will be sent to these parties by operation of the Court's electronic filing system.

Date: January 12, 2016

/s/ Benjamin A. Gastel
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